

Notice of Allowability

Application No.

09/284,114

Examiner

Michael C. Wilson

Applicant(s)

SAKAGUCHI, SHIMON

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

☒ This communication is responsive to 5-26-04.

☒ The allowed claim(s) is/are 13.

☒ The drawings filed on 07 April 1999 are accepted by the Examiner.

☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of

Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

☐ Notice of References Cited (PTO-892)

☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____

☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____

7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Specification

The requirements for deposit ATCC accession No. BP-7790 have been met. Applicants' argument that the declaration indicates the chain of custody was maintained since the time of filing is persuasive. Applicants' arguments include a description of the breeding strategy used to make the SKG strain. While the specification does not clearly teach which breeding resulted in the SKG strain that was deposited as ATCC accession number BP-7790, one could obtain the SKG strain using deposit ATCC accession No. BP-7790.

Claim Rejections - 35 USC § 101

The rejection of claim 13 under 35 U.S.C. 101 as being directed to non-statutory subject matter has been withdrawn because the SKG strain was obtained by non-naturally occurring mating and backcrosses.

New Matter

The rejection of claim 13 under 35 U.S.C. 112, first paragraph, new matter, has been withdrawn because, while the specification did not adequately teach how to make the SKG strain deposited as ATCC accession No. BP-7790 (i.e. which embryos from the complex breeding strategy were deposited), one of skill could obtain the SKG strain from the depository.

Written description

The rejection of claim 13 under 35 U.S.C. 112, first paragraph, written description, has been withdrawn because, while the specification did not adequately teach how to make the SKG strain deposited as ATCC accession No. BP-7790 (i.e. which embryos from the complex breeding strategy were deposited), one of skill could obtain the SKG strain from the depository.

Indefiniteness

The rejection of claim 13 under 35 U.S.C. 112, second paragraph, as being indefinite has been withdrawn because, while the specification did not adequately teach how to make the SKG strain deposited as ATCC accession No. BP-7790 (i.e. which embryos from the complex breeding strategy were deposited), one of skill could obtain the SKG strain from the depository.

Claim Rejections - 35 USC § 102

The rejection of claim 13 under 35 U.S.C. 102(b) as being anticipated by Nordling of record (1992, Arthritis and Rheumatism, Vol. 35, pg 717-722) has been

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withdrawn in view of applicants arguments. The mice of Nordling have a different manifestation of arthritis than those deposited as BP-7790 as claimed. Therefore, the mice of Nordling have a different structure than those deposited as BP-7790.

The rejection of claim 13 under 35 U.S.C. 102(e) as being anticipated by Yamanaka (US Patent 4,950,741) has been withdrawn. The mice of Yamanaka have antibody response against an arthritis-specific protein while the mice deposited as BP-7790 have symptoms of arthritis and an arthritis related gene. Therefore, the mice of Yamanaka have a different structure than those deposited as BP-7790.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Wilson who can normally be reached at the office on Monday, Tuesday, Thursday and Friday from 9:30 am to 6:00 pm at 571-272-0738.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has

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been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached on 571-272-0804.

The official fax number for this Group is (703) 872-9306.

Michael C. Wilson



MICHAEL WILSON
PRIMARY EXAMINER